

EXHIBIT A

Derek W. Loeser (admitted *pro hac vice*)
KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101
Tel.: (206) 623-1900
Fax: (206) 623-3384
dloeser@kellerrohrback.com

Lesley E. Weaver (SBN 191305)
BLEICHMAR FONTI & AULD LLP
555 12th Street, Suite 1600
Oakland, CA 94607
Tel.: (415) 445-4003
Fax: (415) 445-4020
lweaver@bfalaw.com

Plaintiffs' Co-Lead Counsel

Additional counsel listed on signature page

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

IN RE: FACEBOOK, INC. CONSUMER
PRIVACY USER PROFILE LITIGATION

MDL No. 2843
Case No. 18-md-02843-VC-JSC

This document relates to:

ALL ACTIONS

**PLAINTIFFS' NOTICE OF MOTION
AND MOTION TO STRIKE
DEFENDANT FACEBOOK, INC.'S
NOTICES OF APPEAL (Dkt. Nos. 778,
780, 782)**

Judge: Hon. Vince Chhabra
Hon. Jacqueline Scott Corley
Special Master Daniel Garrie
Courtroom: 4, 17th Floor

By this Motion, Plaintiffs respectfully ask that the Court strike Defendant Facebook’s defective notices of appeal for failure to comply with Judge Chhabria’s Order Appointing Special Discovery (Dkt. No. 709) (the “Order”). Specifically, Defendant Facebook, Inc.’s Notice of Appeal of Special Master’s Amended Order Regarding Production of ADI Related Documents (Dkt. No. 778); Notice of Appeal of Special Master’s Amended Order Re: Plaintiffs’ Motion to Compel Production of Plaintiff Data (Dkt. No. 780); and Notice of Appeal of Special Master’s Order Re: Depositions of Former Named Plaintiffs (Dkt. No. 782) (collectively, “Notices”) all fail to adhere to the appeal provisions set forth in the Order. The Order states that:

As agreed by the parties, Mr. Garrie’s rulings may only be appealed to Judge Corley, and her ruling may not be appealed to the district judge. Any party wishing to appeal a ruling by Mr. Garrie must file a notice with Judge Corley not more than seven days following the issuance of Mr. Garrie’s ruling. The notice must, in ***no more than one sentence***, indicate which portion or portions of the ruling the party is appealing. The notice ***may not contain any argument***, and no further written submissions shall be made to Judge Corley; she will decide the appeal based on the materials submitted to Mr. Garrie.

Dkt. No. 709 (emphasis added).

The Order is clear: one sentence, and no argument, in a party’s appeal. But each of Facebook’s Notices are comprised of full paragraphs replete with argument. Rather than submitting one sentence indicating which portion or portions of the rulings Facebook is appealing, Facebook argues that the Special Master’s Orders should be set aside. For example, Facebook’s Notice regarding the production of ADI related documents consists of four paragraphs that identify not only the portions of the ruling Facebook is appealing, but also Facebook’s argument in support of its appeal, *e.g.*, Facebook’s arguments that “the Special Master “has not reviewed [certain materials] and they are outside of the three categories of materials this Court ordered Facebook to produce...”, Dkt. No. 778 (¶ 1); *see also* (¶¶ 2-4) (internal citations omitted). Facebook should not be allowed to shoehorn the reasons why its appeal should be granted—*argument*—into its identification of the portions of the Special Master’s ruling Facebook seeks to appeal.

Facebook's Notice of Appeal of Special Master's Amended Order Re: Plaintiffs' Motion to Compel Production of Plaintiff Data (Dkt. No. 780) likewise is comprised of two paragraphs containing improper argument—again exceeding the one sentence restriction and again violating the prohibition on argument.

Similarly, Facebook's Notice of Appeal of Special Master's Order Re: Depositions of Former Named Plaintiffs (Dkt. No. 782) is comprised of four paragraphs—all of which contain improper argument akin to that which is set forth above.

Judge Chhabria ordered that the record on appeal shall be the briefing before Special Master Garrie. Facebook may not unilaterally augment the record, especially where Plaintiffs are otherwise afforded no response. Further briefing on these issues, already extensively briefed, is unnecessary and unwarranted. The Court should strike Facebook's Notices and overrule Facebook's appeals.

Dated: December 27, 2021

Respectfully submitted,

KELLER ROHRBACK L.L.P.

BLEICHMAR FONTI & AULD LLP

By: /s/ Derek W. Loeser
Derek W. Loeser

By: /s/ Lesley E. Weaver
Lesley E. Weaver

Derek W. Loeser (admitted *pro hac vice*)
Cari Campen Laufenberg (admitted *pro hac vice*)
David Ko (admitted *pro hac vice*)
Adele A. Daniel (admitted *pro hac vice*)
Benjamin Gould (SBN 250630)
1201 Third Avenue, Suite 3200
Seattle, WA 98101
Tel.: (206) 623-1900
Fax: (206) 623-3384
dloeser@kellerrohrback.com
claufenberg@kellerrohrback.com
dko@kellerrohrback.com
adaniel@kellerrohrback.com
bgould@kellerrohrback.com

Lesley E. Weaver (SBN 191305)
Anne K. Davis (SBN 267909)
Matthew S. Melamed (SBN 260272)
Angelica M. Ornelas (SBN 285929)
Joshua D. Samra (SBN 313050)
555 12th Street, Suite 1600
Oakland, CA 94607
Tel.: (415) 445-4003
Fax: (415) 445-4020
lweaver@bfalaw.com
adavis@bfalaw.com
mmelamed@bfalaw.com
aornelas@bfalaw.com
jsamra@bfalaw.com

Christopher Springer (SBN 291180)
801 Garden Street, Suite 301
Santa Barbara, CA 93101

Tel.: (805) 456-1496
Fax: (805) 456-1497
cspringer@kellerrohrback.com

Eric Fierro (admitted *pro hac vice*)
3101 North Central Avenue, Suite 1400
Phoenix, AZ 85012
Tel: (602) 248-0088
Fax: (602) 248-2822
efierro@kellerrohrback.com

Plaintiffs' Co-Lead Counsel

ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)

I, Lesley E. Weaver, attest that concurrence in the filing of this document has been obtained from the other signatory. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 27th day of December, 2021, at Palm Springs, California.

/s/ Lesley E. Weaver

Lesley E. Weaver